THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.10200 OF 2004

DATED: 17TH MARCH, 2006.

Between :

1. Gugulothu Bixam and 3 others. … Petitioners

And

1. The Special Deputy Collector (TW),
   Bhadrachalam, Khammam District
   And two others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.10200 OF 2004

ORDER :

This writ petition is filed seeking a declaration that the alleged action of the respondents in attempting to dispossess the petitioners on the basis of an Eviction Order dated 17-3-1973 as arbitrary and illegal.

From the material on record, it appears that the order of eviction was passed long back on 17-3-1973 against the father of the 1st petitioner in respect of Ac.4.00 guntas of land in Sy.Nos.362 and 363 of Vodduramavaram village. However, the order of eviction has not been executed and it is claimed that the petitioners 2 to 4 herein have purchased the said land from the father of the 1st petitioner for a valid consideration. While so, in pursuance of the instructions by the Special Deputy Collector (Tribal Welfare), Bhadrachalam vide proceedings dated 27-1-2000 steps have now been initiated to implement the order of Eviction dated 17-3-1973.

As can be seen from the counter-affidavit filed by the 3rd respondent - Mandal Revenue Officer, Mulakapalli Mandal, Khammam District, it is clear that when the land was inspected, the 1st petitioner was found only in possession of a small extent of the land and the rest of the land is in possession of petitioners 2 to 4. In the counter-affidavit, it is further stated that the proceedings of the Special Deputy Collector (Tribal Welfare) have been implemented under a cover of Panchanama dated 28-11-2003 and the land has been put in possession of one Gogluth Bixam.

The learned Counsel for the petitioner across the bar disputes the said version and asserts that as on today the petitioners 2 to 4 still continue in possession. Such a disputed question of fact cannot be enquired into by this Court in exercise of jurisdiction under Article 226 of the Constitution of India and no finding as such can be recorded.

In the circumstances, it would be appropriate for the petitioners 2 to 4 if they are so advised, to work out the appropriate common law remedy for redressal of their grievance.

The learned Counsel for the petitioner points out that three other persons who are similarly situated have filed a suit before the Agency Divisional Officer, Paloncha, Khammam District and the same is pending in which a temporary injunction is operating.

Accordingly, the Writ Petition is disposed of granting liberty to the petitioners to institute appropriate proceedings for redressal of their grievance. Keeping in view that during the pendency of this writ petition, there is an order of status quo, it is made clear that status quo obtaining as on today as to the nature and possession of the land in question shall be maintained for a period of eight (8) weeks from today.

Writ Petition is accordingly disposed of. No costs.

_____

G. ROHINI, J.

Dt. 17-03-2006

Note:- CC in one week.

(B/O)

GBS